

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Norfolk Division)**

NADINE OLENYCH,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.: 2:21-cv-42
	:	
DILLARD’S, INC.	:	
	:	
and	:	
	:	
DILLARD STORE SERVICES, INC.	:	
	:	
Defendants.	:	

**NOTICE OF REMOVAL**

Defendants DILLARD’S, INC. and DILLARD STORE SERVICES, INC. (“Dillard’s”) by and through counsel, hereby gives notice of removal of the above action from the Circuit Court of the City of Virginia Beach, Virginia (“Circuit Court”), to the United States District Court for the Eastern District of Virginia, Norfolk Division, pursuant to 28 U.S.C. §§ 1332(a), 1441 and 1446. As set forth below, this Court has original diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332. All requirements for removal of this action are met through the allegations contained in the pleadings filed in the Circuit Court, the Orders entered by the Circuit Court, and in this Notice of Removal.

In support of this Notice of Removal, Dillard’s states as follows:

**Background**

1. There is pending in the Circuit Court of the County of Virginia Beach, Virginia, a Complaint styled Nadine Olenych v. Dillard’s, Inc. and Dillard Store Services, Inc., Case No.

CL20-7650 (the “State Court Action”). The Complaint in the State Court Action was filed on or about December 16, 2020. A copy of the Complaint is attached hereto as **Exhibit A**.

2. Defendants were served with a copy of the Complaint and Plaintiff’s First Set of Interrogatories in the State Court Action on or about December 30, 2020. Defendant filed an Answer to Plaintiff’s Complaint on January 19, 2021 in the Circuit Court for the City of Virginia Beach. A copy of the Answer is attached as **Exhibit B**.

3. There have been no further proceedings in the State Court Action.

4. This Notice of Removal is filed within thirty days upon which Defendant was first served with a copy of the Complaint and is therefore timely pursuant to 29 U.S.C. § 1446(b).

5. The State Court Action is properly removed under 28 U.S.C. § 1441(a) because the State Court Action is subject to the original of this Court pursuant to 28 U.S.C. § 1332, as explained below.

6. Defendant believes the plaintiff, Nadine Olenych, is an individual residing in the State of Virginia.

7. Dillard’s, Inc. is publicly traded on the New York Stock Exchange and is incorporated in the State of Delaware with its principal place of business in Little Rock, Arkansas.

8. Dillard Store Services, Inc. is a subsidiary of Dillard’s, Inc. It is incorporated in the State of Arizona and has a principal place of business in Phoenix, Arizona.

9. As stated in its Answer, Dillard’s, Inc. and Dillard Store Services, Inc. are incorrectly named as defendants. The correct legal entity to be named in this matter is Higbee SALVA, LP.

10. Higbee SALVA, LP is organized in the State of Delaware with its principal place of business in Columbia, South Carolina.

11. Plaintiff's Complaint seeks damages in the amount of \$500,000.00

12. This action is properly removed on grounds of diversity jurisdiction because (a) complete diversity exists between the Plaintiff, the named Defendants and the correct defendant, and (b) the amount in controversy herein exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

13. Both named Defendants and Higbee SALVA, LP consent to the removal of this matter.

14. Written notice of the filing of this Notice of Removal will promptly be given to Plaintiff and the Clerk of the Circuit Court for the City of Virginia Beach, Virginia, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants DILLARD'S, INC. and DILLARD STORE SERVICES, INC. respectfully request that this case proceed before this Court as an action properly removed.

DILLARD'S, INC.  
and DILLARD STORE SERVICES, INC.

/s/  
Brian A. Cafritz, Esq. (VSB #34366)  
KALBAUGH, PFUND & MESSERSMITH, P.C.  
901 Moorefield Park Drive, Suite 200  
Richmond, Virginia 23236  
(804) 320-6300  
(804) 320-6312 (fax)  
Brian.Cafritz@kpmlaw.com

*Counsel for Defendants Dillard's, Inc. and  
Dillard Store Services, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Notice of Removal was electronically mailed and mailed postage prepaid, this 20th day of January, 2021, to:

Joshua J. Coe, VSB# 80236  
Anthony M. Gantous, VSB# 78186  
ANCHOR LEGAL GROUP, PLLC  
5101 Cleveland Street, Suite 100  
Virginia Beach, VA 23462  
(757) 529-0000  
(757) 909-7241 (fax)  
[jcoe@anchorlg.com](mailto:jcoe@anchorlg.com)  
anthony@anchorlg.com  
*Counsel for Plaintiff*

/s/  
Brian A. Cafritz, Esq. (VSB #34366)  
KALBAUGH, PFUND & MESSERSMITH, P.C.  
901 Moorefield Park Drive, Suite 200  
Richmond, Virginia 23236  
(804) 320-6300  
(804) 320-6312 (fax)  
Brian.Cafritz@kpmlaw.com